

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DARWYNN L. BARWICK,	:	
Petitioner,	:	Case No. 3:05-cv-214
-vs-	:	District Judge Thomas M. Rose
	:	Chief Magistrate Judge Michael R. Merz
KIMBERLY HARSHBARGER,	:	
Respondent.	:	

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #21), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on July 3, 2006, hereby ADOPTS said Report and Recommendations.

Accordingly, this Court hereby certifies to the Sixth Circuit that Plaintiff's appeal is frivolous. Plaintiff is hereby ordered to pay the appellate filing fee of \$455.00 for his recent filing of Notice of Appeal (Doc. #20) to the Clerk of this Court not later than August 4, 2006. Failure to do so will result in notice to the Sixth Circuit which may dismiss the appeal for failure to pay the filing fee.

July 5, 2006.

s/Thomas M. Rose

Thomas M. Rose
United States District Judge